



February 20, 2004

ENGROSSED HOUSE BILL No. 1062

DIGEST OF HB 1062 (Updated February 19, 2004 4:02 pm - DI 106)

Citations Affected: IC 33-1; IC 33-2.1; IC 33-11.6; IC 33-14; IC 33-15; IC 33-19; IC 35-33.

Synopsis: Various Title 33 provisions. Removes the terms "shorthand" and "longhand" from laws concerning court reporters to conform to modern court reporting procedures. Specifies that, with certain exceptions, the commission on judicial qualifications for the supreme court and court of appeals is also the commission on judicial qualifications for trial court judges. Specifies that, after a hearing is conducted, a township board in Marion County may determine: (1) whether a small claims court division should be established or abolished in the township, if the township has a population of less than 15,000; (2) whether a small claims court division should be full time or part time; (3) the location of the small claims court division courtroom and offices; and (4) other matters. Specifies the criminal intent necessary for a prosecuting attorney or deputy prosecuting attorney to commit a Class B misdemeanor for dividing the compensation of a deputy prosecuting attorney. Repeals conflicting provisions concerning court fees and credit card service fees. Requires a court clerk to collect a credit card service fee equal to the vendor transaction charge or discount fee from a person using a bank or credit card.

Effective: July 1, 2004.

Foley, Kuzman, Thomas

(SENATE SPONSORS — LANDSKE, KENLEY, BOWSER)

January 13, 2004, read first time and referred to Committee on Courts and Criminal Code.
January 22, 2004, reported — Do Pass.
January 26, 2004, read second time, ordered engrossed.
January 27, 2004, engrossed.
January 29, 2004, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 3, 2004, read first time and referred to Committee on Judiciary.
February 19, 2004, amended, reported favorably — Do Pass.

EH 1062—LS 6565/DI 69+



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February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1062

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-1-4-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **Subject to subsection (b), if**
3 an indigent person: ~~desiring~~

4 (1) **desires** to appeal to the supreme court or the court of appeals
5 from the decision of ~~any circuit a trial court or criminal court in~~
6 ~~a criminal cases; case; and~~

7 (2) **does** not ~~having~~ **have** sufficient means to procure the
8 ~~longhand typed or printed~~ manuscript or transcript of the
9 evidence taken in ~~shorthand~~; by the ~~order or permission of any~~
10 court **reporter**;

11 the court shall direct the ~~shorthand court~~ reporter to transcribe the
12 ~~shorthand~~ notes of evidence into ~~longhand~~; **a typed or printed**
13 **manuscript or transcript** as soon as practicable and deliver the ~~same~~
14 **manuscript or transcript** to the indigent person. ~~However~~

15 (b) **Notwithstanding subsection (a):**

16 (1) the court must be satisfied that the indigent person ~~has not~~

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1 ~~lacks~~ sufficient means to pay the ~~court~~ reporter for making the
 2 ~~longhand~~ manuscript or transcript of evidence; and
 3 (2) the reporter may charge ~~such the~~ compensation ~~as is~~ allowed
 4 by law in ~~such~~ cases for making and furnishing a ~~longhand~~
 5 manuscript ~~which service of or transcript~~. The reporter shall be
 6 paid by the court out of the proper county treasury.

7 SECTION 2. IC 33-2.1-6-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Subject to**
 9 **section 3 of this chapter**, the commission on judicial qualifications
 10 created by Article 7, Section 9 of the Constitution of **the State of**
 11 Indiana ~~shall be~~ **is** the commission on judicial qualifications for judges
 12 of ~~superior and probate trial~~ courts. ~~in certain counties as set forth in~~
 13 ~~section 3 of this chapter~~; and The members of the commission on
 14 judicial qualifications for the court of appeals and ~~the~~ supreme court
 15 ~~shall serve as~~ **are** the members of the commission on judicial
 16 qualifications for judges of ~~superior and probate the trial~~ courts.

17 **(b)** The definitions to be used in the operation of the commission on
 18 judicial qualifications **for trial courts** shall be the same as those
 19 definitions used for the commission on judicial qualifications for the
 20 supreme court and court of appeals. ~~Provided that; However,~~ the term
 21 "judge" ~~shall mean~~ **means** a judge of a ~~superior or probate trial~~ court.

22 SECTION 3. IC 33-2.1-6-3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** The commission
 24 on judicial qualifications ~~created pursuant to described in~~ section 2 of
 25 this chapter shall exercise disciplinary jurisdiction over judges of
 26 ~~superior and probate trial~~ courts. ~~Provided That;~~

27 **(b)** In ~~any a~~ county of this state where in which a commission on
 28 judicial qualifications ~~was in operation by virtue of law operated~~
 29 before July 26, 1973, the ~~county~~ commission on judicial qualifications
 30 ~~shall cease to may not~~ exercise disciplinary jurisdiction ~~concerning~~
 31 ~~over the county courts, of any such county and such jurisdiction shall~~
 32 ~~be exercised by the commission on judicial qualifications created~~
 33 ~~pursuant to section 2 of this chapter. Provided However That; wherever~~
 34 **described in Article 7, Section 9 of the Constitution of the State of**
 35 **Indiana shall exercise disciplinary jurisdiction. However, if the law**
 36 creating a ~~county~~ commission on judicial qualifications in ~~any a~~ county
 37 of this state before July 26, 1973, precluded judges subject to its
 38 disciplinary jurisdiction from participating in political activities ~~due to~~
 39 ~~the fact that said because the~~ judges are selected by a merit selection
 40 system, ~~said the~~ judges ~~shall continue to be~~ **are** precluded from such
 41 participation as if such activity were grounds for removal pursuant to
 42 this chapter; and ~~Provided Further That; the participating in political~~

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activities.

(c) **The operation and function of a judicial nominating commissions in operation commission operating in any a county of this state by virtue of law before July 26, 1973, shall is not be in any way affected in their operation or function: by this chapter.**

SECTION 4. IC 33-11.6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Each division of the small claims court ~~shall~~ **must** be a full-time division or a part-time division as ~~the individual determined by the township boards shall determine board~~ following ~~the a hearing provided for in conducted~~ **under** section 3 of this chapter.

SECTION 5. IC 33-11.6-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~In the year 1975, A hearing was must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public on the question of concerning:~~

- (1) whether a small claims court division should be established **or abolished** in the township, ~~in each if the township with~~ **has** a population of less than fifteen thousand (15,000) persons; ~~and~~
- (2) whether the **small claims court** division should be full time or part time;
- (3) the location of the **small claims court** division courtroom and offices; and
- (4) other relevant matters.

SECTION 6. IC 33-11.6-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~Within Not more than two (2) weeks following after a hearing is held pursuant to under~~ section 3 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order ~~as to concerning:~~

- (1) whether a small claims court division shall be established **or abolished** in the township, if ~~such the~~ township has a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division, if any, shall function full time or part time;
- (3) the location of the **small claims court** division courtroom and offices ~~pursuant to under~~ IC 33-11.6-8-1; and
- (4) other relevant matters.

SECTION 7. IC 33-14-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and ~~their deputies~~ **deputy prosecuting attorneys** ~~shall are~~ **entitled to** receive ~~for their services~~ the compensation provided in this

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chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to the prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a the prosecuting attorney or a deputy prosecuting attorney that exceeds the amount if any; that the state is to pay. shall be paid upon a duty itemized and verified claim; filed as required by law; and by warrant issued by the auditor of the county; payable to the respective prosecuting attorney or deputy; upon allowance of such claim by the board of county commissioners. It is a Class B misdemeanor for

(c) A deputy to prosecuting attorney who knowingly divide such divides compensation with the prosecuting attorney or any other officer or person in connection with such the deputy prosecuting attorney's employment or for the commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person to accept any such who knowingly accepts the deputy prosecuting attorney's division of compensation described in subsection (c) commits a Class B misdemeanor.

(b) (e) The attorney general of the state shall call at least one (1) and not to exceed more than two (2) conferences of the several prosecuting attorneys each year for the purpose of considering; discussing; and developing to consider, discuss, and develop coordinated plans for the enforcement of the traffic and other laws of this state: Indiana. The date or dates upon which such the conferences shall be are held shall be fixed by the attorney general. The expenses necessarily incurred by any such a prosecuting attorney in attending any such a conference held under this subsection, including the actual expense of transportation to and from the place where such the conference is held, together with his meals and lodging, shall be paid from the general fund of the county upon the presentation of a duty an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there be is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of under this subsection shall be paid from the general fund of the respective counties constituting such the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

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SECTION 8. IC 33-15-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) ~~For the purpose of facilitating and expediting~~ **To facilitate and expedite** the trial of causes, the judge of each circuit, ~~criminal~~, superior, probate, and juvenile court of each ~~and every~~ county of this state shall appoint an official reporter. ~~whose duty it shall be; whenever~~

(b) **The official reporter shall, when required by such the recorder's appointing judge, to do the following:**

(1) Be promptly present in ~~said the appointing judge's court. and to take down in shorthand~~

(2) **Record** the oral evidence given in all causes by any **approved method**, including both questions and answers. ~~and to~~

(3) Note all rulings of the judge ~~in respect to~~ **concerning** the admission and rejection of evidence and the objections and exceptions ~~thereto; and to the admission and rejection of evidence.~~

(4) Write out the instructions of the court in jury trials.

~~(b)~~ (c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of ~~his~~ **the reporter's** duties as reporter of the circuit or probate court; and

(2) except as provided in subsection ~~(c)~~, ~~such reporter shall~~ (d), **may not** receive ~~no~~ additional compensation for ~~his~~ **the reporter's** services for reporting the proceedings of the juvenile court.

~~(c)~~ (d) In counties ~~wherein in which:~~

(1) a circuit court has juvenile jurisdiction; ~~and wherein~~

(2) there is a juvenile referee; and

(3) the circuit judge is the judge of the juvenile court;

the salary of the juvenile court reporter ~~shall be~~ **is** one hundred and twenty-five dollars (\$125) per month ~~which shall be~~ in addition to any compensation ~~such the reporter may receive~~ **receives** as reporter of the circuit court.

~~(d)~~ (e) The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred

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fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom ~~shall be~~ **entitled to** receive a salary of ~~not less than~~ **at least** three hundred dollars (\$300) per month.

SECTION 9. IC 33-15-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~Whenever, in any cause, such~~ **(a) If requested to do so, an official** reporter shall ~~be requested to do so, he shall~~ furnish to either party **in a case** a transcript of all or any part of ~~said the~~ proceedings required by ~~him the~~ reporter to be taken or noted, including all documentary evidence. ~~and it~~

(b) An official reporter shall ~~be his duty to~~ furnish the same written in a plain legible longhand or typewriting a **typewritten or printed transcript described in subsection (a)** as soon as practicable after being requested to do so. ~~as practicable, and he~~

(c) The reporter shall certify that ~~it the~~ transcript contains all the evidence given in the ~~cause. Provided, That case.~~

(d) The reporter:

(1) may require payment for ~~such a~~ transcript **furnished under this section;** or

(2) may require that the ~~same~~ payment be satisfactorily secured; before ~~he the~~ reporter proceeds to do the **required** work. ~~required of him.~~

SECTION 10. IC 33-19-6.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. **(a) A payment made under this chapter does not finally discharge a person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.**

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a credit card service fee equal to the vendor transaction charge or discount fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 11. IC 35-33-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. **In addition to any other**

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1 **condition of bail imposed under this chapter, a defendant who**
2 **posts bail by means of a credit card shall pay the credit card**
3 **service fee under IC 33-19-6.5.**

4 SECTION 12. IC 35-33-9-8 IS ADDED TO THE INDIANA CODE
5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2004]: **Sec. 8. In addition to any other condition of bail imposed**
7 **under this chapter, a defendant who posts bail by means of a credit**
8 **card shall pay the credit card service fee under IC 33-19-6.5.**

9 SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE
10 JULY 1, 2004]: IC 33-19-6.5-2; IC 35-33-8-9; IC 35-33-9-7.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1062, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1062, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 35, after "fee" insert "**equal to the vendor transaction charge or discount fee**".

and when so amended that said bill do pass.

(Reference is to HB 1062 as printed January 23, 2004.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

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